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Appeals of Helen Lisle

Appellant filed personal income tax Form 540's for the years under appeal which provided no information concerning her income or any applicable deductions. Instead, the words "Object: Self **Incrimination**" were filled in on some of the lines of the form. She also submitted statements with her Form 540's for '1976 and 1977 which set forth various constitutional arguments in support of her position. Respondent notified appellant that the forms presented did not constitute valid returns and demanded that she file proper returns within 30 days. Appellant failed to comply and respondent then issued proposed assessments based upon information from her employer, the Franciscan Restaurant. The assessments include penalties for failure to file timely returns, failure to file after notice and demand, and **for** negligence. The assessment for the year '1978 also included a penalty for failure to pay estimated tax.

Respondent's determinations are presumptively correct, and appellant bears the burden of proving them erroneous. (Appeal of K. LS Durham, B d . o f Equal., March 4, 1980; Appeal of Harold G. Jindrich, Cal. St. Bd. of Equal., April 6, 1977.) This rule also applies to the penalties assessed in this case. (Appeal of Harold G. Jindrich, supra (failure to file timely, and-lure to file after notice and demand); Appeal of Myron E. and Alice Z. Gire, Cal. St. Bd. of Equal., Sept. 10, 1969 (negligence); see Appeal of Kenton A. Dean, Cal. St. Bd. of Equal., July 31, 1973 (estimated tax).) No such proof has been presented here. Appellant contends that she is not required to file returns and she places her reliance upon various constitutional arguments. While we believe that she is acting in accordance with her honest convictions, her contentions and arguments are completely without merit. In any event, the passage of Proposition 5 by the voters on June 6, 1978, adding section 3.5 to Article III of the California Constitution, precludes our determining that provisions of the California Personal Income Tax Law, including those requiring self-assessment, are unconstitutional or unenforceable. In addition, we note that the power of the State Legislature to levy personal income taxes is inherent and requires no special constitutional grant. (Tetreault v. Franchise Tax Board, 255 Cal.App.2d 277, 280 [63 Cal.Rptr. 326] (1967); Hetzel v. Franchise Tax Board, 161 Cal.App.2d 224, 228 [326 P.2d 611] (1958).)